

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	
	)	
v.	)	Criminal No. 20-116
	)	
BRIAN BARTELS	)	

**GOVERNMENT'S POSITION WITH RESPECT TO  
SENTENCING FACTORS**

AND NOW comes the United States of America, by its attorneys, Scott W. Brady, United States Attorney for the Western District of Pennsylvania, and Shaun E. Sweeney, Assistant United States Attorney for said district, submitting as follows:

Government counsel has reviewed the final Presentence Investigation Report, which was filed on or about December 21, 2020. With respect to paragraph 17 of the Presentence Investigation Report, government counsel's position as to the most analogous guideline initially was that it should be §2J1.2, in light of the defendant's conduct. However, after reviewing the Third Circuit decision in *United States v. Jackson* 862 Fed 3d. 365 (3d Cir. 2017), which applies an elements-based approach to §2X5.1, the government's position has changed. As set forth in more detail in the Government's Sentencing Memorandum, the most analogous guideline is §2A2.4. The government has no other objections or requests for modification of the report.

Respectfully submitted,

SCOTT W. BRADY  
United States Attorney

/s/ Shaun E. Sweeney  
SHAUN E. SWEENEY  
Assistant United States Attorney  
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